



Paper No. 5

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In re Application of :
Renford Heaysman :
Application No. 09/718,498 :
Filed: November 24, 2000 :
Attorney Docket No. 367.39322X00 :
Title: RADIOTELEPHONE HANDSET :
DECISION REFUSING STATUS
UNDER 37 C.F.R. 1.47(b)

This is in response to the petition, filed August 6, 2001, under 37 C.F.R. 1.47(b).

The petition under 37 C.F.R. 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 C.F.R. 1.47(b)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor.

Failure to respond will result in abandonment of the application.
Any extensions of time will be governed by 37 C.F.R. 1.136(a).

The above-identified application was filed on November 24, 2000, without an executed oath or declaration and identifying Renford Heaysman as sole inventor. Accordingly, on April 6, 2001, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with 37 C.F.R. 1.63, and a surcharge for its late filing. This Notice set a two-month period for reply, to June 6, 2001.

In reply, applicant filed the instant petition, and paid both the petition fee and the surcharge for late filing of the declaration. To make timely the reply, a two-month extension of time was purchased by petitioner. Accompanying the petition were a declaration signed by the assignee, Nokia Mobil Phones Limited, and a declaration of facts by Motohiro Kasahara, describing the efforts made to locate inventor Heaysman.

A grantable petition under 37 C.F.R. 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 C.F.R. 1.63; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application; and (6) proof of

irreparable damage. The instant petition does not satisfy requirement (2).

As to requirement (2), the declaration is not acceptable because it does not comply with 37 C.F.R. 1.63(a)(3). The declaration submitted does not identify the citizenship of inventor Heaysman. On renewed petition, applicant must submit a declaration in compliance with 37 C.F.R. 1.63.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Assistant Commissioner for Patents
Box DAC
Washington, D.C. 20231

By FAX: (703) 308-6916
Attn: Office of Petitions

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Telephone inquiries related to this decision may be directed to Petitions Attorney Cliff Congo at (703) 305-0272.

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